

INFORMATION SHEET
DETERMINATIONS OF NO JURISDICTION FOR ISOLATED, NON-NAVIGABLE, INTRA-STATE WATERS
RESULTING FROM U.S. SUPREME COURT DECISION IN SOLID WASTE AGENCY OF NORTHERN COOK
COUNTY V. U.S. ARMY CORPS OF ENGINEERS

DISTRICT OFFICE:
FILE NUMBER:

Omaha District; North Dakota Regulatory Office
200460673

REGULATORY PROJECT MANAGER: Daniel E. Cimarosti **Date:** 18 January 2005
PROJECT REVIEW/DETERMINATION COMPLETED: In the office Y (Y/N) **Date:** 7 January 2005
At the project site Y (Y/N) **Date:** 12 January 2005

PROJECT LOCATION INFORMATION:

State: North Dakota
County: McLean
Center coordinates of site by latitude & longitudinal coordinates: 47 32 4.1465 north latitude
100 43 48.
Approximate size of site/property (including uplands & in acres): 0.1 acres
Name of waterway or watershed: Un-named wetland; Missouri River
Watershed

SITE CONDITIONS:

Type of aquatic resource ¹	0-1 ac	1-3 ac	3-5 ac	5-10 ac	10-25 ac	25-50 ac	> 50 ac	Linear feet	Unknown
Lake									
River									
Stream									
Dry Wash									
Mudflat									
Sandflat									
Wetlands					1				
Slough									
Prairie pothole									
Wet meadow									
Playa lake									
Vernal pool									
Natural pond									
Other water (identify type)									

¹Check appropriate boxes that best describe type of isolated, non-navigable, intra-state water present and best estimate for size of non-jurisdictional aquatic resource area.

Migratory Bird Rule Factors ¹ :	If Known		If Unknown Use Best Professional Judgment		
	Yes	No	Predicted to Occur	Not Expected to Occur	Not Able To Make Determination
Is or would be used as habitat for birds protected by Migratory Bird Treaties?			X		
Is or would be used as habitat by other migratory birds that cross state lines?			X		
Is or would be used as habitat for endangered species?				X	
Is used to irrigate crops sold in interstate commerce?				X	

¹Check appropriate boxes that best describe potential for applicability of the Migratory Bird Rule to apply to onsite, non-jurisdictional, isolated, non-navigable, intra-state aquatic resource area.

TYPE OF DETERMINATION:

Preliminary Or Approved X

ADDITIONAL INFORMATION SUPPORTING NJD (e.g., paragraph 1 – site conditions; paragraphs 2-3 – rationale used to determine NJD, including information reviewed to assess potential navigation or interstate commerce connections; and paragraph 4 – site information on waters of the U.S. occurring onsite): The wetland in question is approximately 12 acres and is located near Brush Lake. Brush Lake has a public boat ramp, approximately 180 cabins on its shoreline, and has been stocked by the North Dakota Game and Fish Department. Brush Lake has an ordinary high water mark

with adjacent wetlands. The wetland in question is separated from Brush Lake adjacent wetlands by approximately 60 feet of uplands. Evidence indicates that the landform, separating Brush Lake from the wetland in question, is natural.